IN THE HIGH COURT OF BOMBAY AT GOA

TAX APPEAL NO. 33 OF 2007

COMMUNIDADE OF MOROMBI - O -
PEQUENO THROUGH SPECIAL ATTORNEY
MR. ANDRE AGNELO OLIVEIRA ... Appellant

Versus

THE ASSISTANT COMMISSIONER OF
INCOME TAX ... Respondent

Mr. Ajit R. Kantak, Advocate for the Appellant.
Mr. S.R. Rivonkar, Advocate for the Respondent.

Coram:- F.I. REBELLO &
N. A. BRITTO, JJ.

Date:- 23rd November, 2007

P.C.:

Heard learned Counsel for the parties.

2. The question of law as framed really would not arise in the matter as this Court has not passed any order directing restitution of the interest in favour of the State Government. However, considering the appeal preferred by the assessee before the Supreme Court, the undertaking dated 1/10/2007 filed on behalf of the assessee is taken on record. The terms in the undertaking are accepted.

3. It is further made clear that in the event this Court or Hon'ble Supreme Court directs restitution, the assessee will be assessed for income on the interest from the assessment years 2001-2002 onwards. On behalf of the assessee, learned Counsel states that assessee will be bound by the undertaking given and they will comply with the order passed by this Court today in the matter of assessment of interest income from the assessment years 2001-2002.

It will be open to the Revenue to proceed with the proceedings in the matter of penalty but not to enforce the same, till the decision of the Supreme Court.

4. Various judgments were cited. We have considered those judgments. None of those judgments would be applicable to the facts of the present case as admittedly the assessee/appellant has received compensation and interest as accrued on that compensation, which would be income in the hands of the assessee.

5. With the above observations, Tax Appeal stands disposed off.

F.I. REBELLO, J.

N. A. BRITTO, J.

NH